

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

UNITED STATES OF AMERICA,

Criminal No.: 14-289 (SRN/JSM)

Plaintiff,

v.

ORDER AND TRIAL NOTICE

**(3) Alfredo Basurto-Herrera,
(4) Eleuterio Izazaga-Pascacio,
(5) Aundray Lindsay,
(8) Eduardo Penaloza-Romero,
(11) Jesus Sotelo-Valdovinos,**

Defendants.

Allen A. Slaughter, Jr., Assistant United States Attorney, 316 North Robert Street, Suite 404, St Paul, MN 55101, for the plaintiff, United States of America;

Paul D. Schneck, 222 South Ninth Street, Suite 1600, Minneapolis, MN 55402 for defendant Alfredo Basurto-Herrera;

Bruce D. Nestor, De Leon & Nestor, LLC, 3547 Cedar Avenue South, Minneapolis, MN 55407 and Ryan M. Pacyga, Pacyga & Mohammad LLC, 333 South Seventh Street, Suite 2850, Minneapolis MN 55402, for defendant Eleuterio Izazaga-Pascacio;

Steven E. Wolter, Kelley, Wolter & Scott, P.A., 431 S. Seventh Street, Suite 2530, Minneapolis, MN 55415 for defendant Aundray Lindsay;

Robert M. Paule, Robert M. Paule, PA, 920 Second Avenue South, Suite 975, Minneapolis MN 55402, for defendant Eduardo Penaloza-Romero;

Philip G. Leavenworth, Leavenworth Law Office, 182 Star Circle, Vadnais Heights, MN 55127, for defendant Jesus Sotelo-Valdovinos.

This matter is before the Court on motions of several defendants for a continuance of the

trial date in this matter.¹

Defendant Jesus Sotelo-Valdinovos's Motion [Docket No. 236], requests a continuance of trial based on the finding that this case is complex, involving thousands of pages of documents, hundreds of pages of transcripts, and many hours of audio and video data that must be reviewed, as well as the need to interview out-of-state witnesses that may be favorable to the Defendant. Counsel asks for a trial date in the months of September or October. Mr. Sotelo-Valdinovos has signed a Speedy Trial statement [Docket No. 278] in support of the motion, and in support of the exclusion of time from the date of his statement (May 30, 2015) to the trial date from computations under the Speedy Trial Act.

Similarly, Defendant Aundray Lindsay has filed a motion for Continuance of Trial Date and to Exclude Time Under the Speedy Trial Act [Doc. No. 251]. He has signed a Speedy Trial statement [Doc No. 282] in support of the motion, which states that additional time is necessary to review discovery and adequately prepare for trial. He asks that the time from the date of the statement to the date of the jury trial be excluded from the time in which he would have otherwise been brought to trial.

Defendant Eleuterio Izazaga-Pascacio has also filed a Motion to Exclude Time Under the Speedy Trial Act [Doc. No. 276], asking for the time from the Court's Order on its motion through October 13, 2015 be excluded, based on the Defendant's signed statement that he and

¹In this Order, the Court addresses the motions of Defendants Jesus Sotelo-Valdinovos, Aundray Lindsay, Eleuterio Izazaga-Pascacio, and Eduardo Penaloza-Romero. The motions of Defendant Alfredo Basurto-Herrera for a Continuance of Date to File Pretrial Motions, Responses, Motion Hearing, and Any Other Scheduled Dates [Doc. No. 266] and to Exclude Time under the Speedy Trial Act [Doc. No. 269] were granted in an Order from Magistrate Judge Janie S. Mayeron, dated May 29, 2015 [Doc. No. 275].

his attorney need additional time to review the voluminous discovery in this matter. [Doc. No. 279]

Defendant Eduardo Penaloza-Romero's motion [Doc. No. 280] asks the Court to move the trial date to October 2015, and to exclude the period of time from the date of his motion (June 1, 2015) to the scheduled trial date. The Statement of Facts signed by Defendant Penaloza-Romero states that he needs additional time to review the "extraordinarily large amount of discovery" and to adequately prepare for trial. [Doc. No. 281]

Finally, the Government has indicated that it is not opposed to the requested continuances and exclusion of time from computations under the Speedy Trial Act, 18 U.S.C. § 3161, et seq.

For these reasons, the Court finds that the ends of justice served by granting the continuance outweigh the best interests of the public and the Defendant in a speedy trial under 18 U.S.C. § 3161(h)(7)(A).

Accordingly, **IT IS HEREBY ORDERED** that:

1. The Defendants' Motions to Continue Trial [Docket Nos. 236, 251, 276, and 280] are **GRANTED**. Additionally, the portion of each motion that requested to exclude time under the Speedy Trial Act is **GRANTED**. The period of time from the date of this Order to the trial date set below (October 13, 2015) shall be excluded from Speedy Trial Act computations in this case.
2. This case is now scheduled for trial before Judge Susan Richard Nelson on **Tuesday, October 13, 2015 at 9:00 a.m. in Courtroom 7B, U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota.**
3. A Pretrial Conference in this case will be held on **Friday, October 2, 2015 at**

9:30 a.m. in Courtroom 7B, U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota. The Court requires the attendance of all counsel and Defendants at the conference. Counsel should be prepared to discuss any issues related to the trial of the case.

4. Counsel must adhere to the following schedule regarding the submission of trial documents:
 - a. All trial documents, including trial briefs, motions in limine, voir dire and proposed jury instructions shall be filed and served pursuant to the Criminal Electronic Case Filing Procedures for the District of Minnesota and submitted to Judge Nelson's chambers no later than **5:00 p.m. on Monday, September 21, 2015**. Two courtesy copies, 3-hole punched, of all trial documents shall be provided to the Court. Courtesy copies are expected to be received in chambers no later than the day after documents are filed on ECF.
 - i. The parties are required to jointly submit one set of agreed-upon instructions on the date noted above, except for those whose needs could not have been foreseen. To this end, the parties are required to serve their proposed instructions upon each other prior to the filing deadline. The parties should then meet, confer, and submit one set of agreed-upon instructions. The instructions should be submitted in hard copy as well as e-mailed to the chambers e-mail box (*nelson_chambers@mnd.uscourts.gov*) in a word-processing

format. Each instruction shall be on a separate page and shall contain citation of legal authority.

- ii. Responses to motions in limine are to be filed on CM/ECF, emailed to the chambers due no later than **5:00 p.m. on Monday, September 28, 2015.**

- b. By **5:00 p.m. on Monday, September 21, 2015**, proposed exhibit and witness lists, as well as a proposed verdict form shall be provided in Microsoft Word or Corel WordPerfect format via the chambers e-mail box.

- i. Prior to trial, all counsel must mark exhibits for identification in the order in which they will be offered at trial. Please put the case number on each exhibit. The government shall mark its first exhibit Government's Exhibit #1. Defendant's first exhibit shall be marked Defendant's Exhibit #1. Do not mark exhibits "1a, 1b, 1c, etc." Each exhibit should have a separate number.
- ii. Counsel shall submit to the Court, in duplicate, a list of all exhibits to be used as evidence at trial. The exhibits shall be listed in the order in which they will be offered at trial.
- iii. Counsel shall also submit to the Court, in duplicate, a list of the names and addresses of the prospective witnesses. This list should be separate from the exhibit list.

The Court's calendar clerk, Susan Del Monte, shall be advised immediately at 651-848-

1970 if the case will not be going to trial.

Dated: June 12, 2015

s/Susan Richard Nelson
SUSAN RICHARD NELSON
United States District Judge